FISCAL NOTE

HB 3572 - SB 3712

March 27, 2006

SUMMARY OF BILL: Extends sales and use tax refunds, currently allowed out-of-state film production companies, to in-state film production companies in connection with filming or producing movies in Tennessee whenever the amount spent exceeds $500,000. Prohibits sales and use tax refunds whenever film production companies are issued film investor tax credits (FITCs) by the Department of Revenue (DOR). Authorizes FITCs of differing amounts depending upon the total certified base investment.

ESTIMATED FISCAL IMPACT:

Decrease State Revenues – Net Impact - Exceeds $3,600,000

Other Fiscal Impact - Some residual economic impact could materialize from the enactment of this legislation. However, determining the extent of these secondary effects is very difficult. Therefore, the fiscal impact of these secondary effects is considered undeterminable and not quantifiable for purposes of this fiscal note.

Assumptions:

- FITCs are assignable and transferable between taxpayers and can be applied to franchise and excise tax liability.
- FITCs must be used within 5 years from the date of issuance.
- FITCs can only be received for "state-certified productions."
- "State certified production" means a film or movie which has been certified by the Tennessee Film, Entertainment and Music Commission and the DOR.
- The fiscal impact of this bill is dependent upon (1) the incremental tax incentives received by out-of-state film production companies, (2) new tax incentives received by in-state film production companies, and (3) any residual economic impact that occurs as a result of the enactment of this legislation.
- Currently, out-of state film production companies produce a minimum of 3 film projects per year in Tennessee.
- Out-of-state film production companies are estimated to produce a minimum of 5 film projects per year in Tennessee following the enactment of this legislation.
- In-state expenditures for out-of-state film production companies are estimated to average at least $5.0 million per film project.
- In-state expenditures for out-of-state film production companies are estimated to exceed $25.0 million (5 projects X $5.0 million = $25.0 million).
- 70% of total expenditures are sales taxable.

- Sales and use tax refunds for out-of-state film production companies under current law are estimated to exceed $735,000 (3 projects X $5.0 million X 70% taxable X 7% state rate = $735,000).
- Sales and use tax refunds for out-of-state film production companies, under this proposed legislation, are estimated to exceed $1,225,000 (5 projects X $5.0 million X 70% taxable X 7% state rate = $1,225,000).
- Out-of-state film production companies could receive some amount estimated to exceed $490,000 in *additional* sales and use tax refunds ($1,225,000 as proposed - $735,000 under current law = $490,000).
- FITCs allowable for out-of-state film production companies are estimated to exceed $4,250,000 (5 projects X $5.0 million X 17% FITC = $4,250,000).
- Out-of-state film production companies would choose the $4,250,000 in FITCs in lieu of $1,225,000 in sales and use tax refunds.
- State revenues would decline by some amount estimated to exceed $3,515,000 as a result of the incremental tax incentives afforded out-of-state production companies ($4,250,000 received in FITCs - $735,000 in sales and use tax refunds that would be forgone = $3,515,000).
- At least 1 film production company is domiciled in Tennessee.
- This company spends some amount exceeding $500,000 while producing at least 1 film in Tennessee each year.
- This company would be eligible for some amount estimated to exceed $24,500 in sales and use tax refunds each year (1 project X $500,000 X 70% taxable X 7% state rate = $24,500).
- This company would also be eligible for a FITC equal to some amount exceeding $85,000 (1 project X $500,000 X 17% FITC = $85,000).
- In-state film production companies would choose the FITC estimated to exceed $85,000, decreasing state revenues by the same amount.
- The net decrease to state revenues is estimated to exceed $3.6 million per year ($3,515,000 from incentives given out-of-state film production companies + $85,000 from incentives given in-state film production companies = $3,600,000).

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White, Executive Director